

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

PLAINTIFF,

VS.

CASE No.: 21-CR-237-GKF

THOMAS ANTHONY PEARCE, II

DEFENDANT.

**DEFENDANT THOMAS ANTHONY PEARCE, II's
MOTION FOR DOWNWARD VARIANCE**

Pursuant to 18 U.S.C. § 3553(a) Mr. Pearce hereby moves for a downward variance or a Non-Guideline sentence.

A Brief in support of this Motion is set forth below.

The Sentencing Statute

18 U.S.C. § 3553(a) directs the consideration of a number of factors in crafting a sentence that is “...no greater than necessary...” to effectuate the purposes of 18 U.S.C. § 3553(b).

Of those factors¹, in this case, “...the history and characteristics...” of Mr. Pearce are of particular import, followed by “...the need to avoid unwarranted sentencing disparity” (18 U.S.C. § 3553(a)(6)).

Mr. Pearce and Sentences

Mr. Pearce stands before this Court having been convicted by jury of crimes more serious than any other known to federal law besides treason and first-degree murder. There is literally nothing Mr. Pearce can tender that will cure or mitigate damage inflicted as set forth in Paragraph 11 of the Revised PSR.

That being said, it is equally true that Mr. Pearce also stands before this Court with no criminal history (Revised PSR, Page 11, ¶ 41), and is 55 years old. . It is also very rare in this District for a Defendant with no criminal history to be sentenced to life imprisonment - - in a child sex case or any other instance. Those factors justify a significant variance downward from both a life sentence and a 30-year sentence (*See* Revised PSR, P. 13, ¶ 60).

Given Mr. Pearce’s age, a 15-year sentence adequately reflects the seriousness of the offenses, promotes respect for the law, provides just punishment, deters criminal conduct, and incapacitates Mr. Pearce until such time as would be unlikely to present a risk of recidivism. Any such risk can be addressed by a lengthy term of supervised release, under all the conditions set forth in Paragraph 67 of the revised PSR

¹18 U.S.C. § 3553(a)(2) directs consideration of the “need for the sentence imposed to reflect the seriousness of the offense, promote respect of the law...provide just punishment for the offense...afford adequate deterrence to criminal conduct...protect the public from further crimes...”,the “...kinds of sentences available...” and the need to “...provide...correctional treatment in the most effective manner.” 18 U.S.C. § 3553(a)(4)(A) directs consideration of the Guidelines.

Respectfully submitted,

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Proof of Service

I hereby certify that on this 10th day of January 2023, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) all counsel of record registered with the CM/ECF system.

S/Fred Randolph Lynn